

RESPONSE TO RESTRICTION REQUIREMENT
AND ELECTION OF SPECIES REQUIREMENT
Appln. No. 10/034,959
Page 6 of 8

Remarks

This paper is responsive to the Office Action mailed on May 5, 2005, in which all pending claims 1-24 were subject to a restriction requirement and an election of species requirement. Claims 1-4 and 13-17 have been withdrawn from consideration as drawn to the non-elected invention. Claims 18 and 24 have been cancelled. Claims 5, 12, 19, 20, 22, and 23 have been amended. New claims 25-31 have been added. After entry of this paper, claims 5-12, 19-23, and 25-31 are presently under consideration.

Amendments to the Claims

The Applicant submits that no new matter has been introduced by the new claims or amendments to the claims. New claims 25-28 depend from claim 5 and new claims 29-31 depend from claim 12. Each of these new claims recite various features of the claimed invention which are fully supported by the claims and specification as originally filed. The amendments to claims 5, 12, 19, 20, 22, and 23 are also fully supported by the claims and specification as originally filed. The Applicant respectfully requests entry of these claims.

Restriction Requirement

In the Office Action mailed May 5, 2005, the Examiner stated that the invention is directed to two distinct inventions. In particular, Group I, claims 1-4 and 13-17 are drawn to a method for treating urinary stress incontinence / a method for securing a suture to a patient; and Group II, claims 5-12 and 18-24, are drawn to a device for securing a suture / bone anchor to a patient. The Examiner also stated that the inventions of Group I and Group II are related as product and process of use. The Examiner is of the opinion that the product as claimed can be used in a materially different process of using that product

RESPONSE TO RESTRICTION REQUIREMENT
AND ELECTION OF SPECIES REQUIREMENT
Appl. No. 10/034,959
Page 7 of 8

such as securing the suture / bone anchor to leg or other cortical bone so as to anchor a suture.

By this response, the Applicant elects Group II, which now includes claims 5-12, 19-23 and 25-31, for further prosecution in this application. This election is made with traverse.

The Applicant maintains that the application can be examined in its entirety without serious burden to the Examiner. The Applicant submits that this assertion by the Examiner alone is not sufficient to require the Applicant to bear the burden of prosecution of two patent applications for the claimed subject matter. The Applicant submits that a search of the claimed device and claimed method together would not place undue burden on the Examiner. Reconsideration and withdrawal of the present restriction requirement is requested.

Election of Species Requirement

The Examiner further stated that the claims of Group II are directed to two patentably distinct species: Group A, claims 5-12 and Group B, claims 18-24. The Examiner also required the Applicant to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

The Examiner is of the position that currently no claim is generic. The Examiner further stated that upon the allowance of a generic claim, the Applicant will be entitled to consideration of claims of additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim.

The Applicant elects the species of Group A. This election is made without traverse. The Applicant submits that at least claims 5-12, 19-23, and 25-31 read on the elected species. By this amendment, claims 18 and 24 have been cancelled, claims 19-23 and 25-28 depend from independent claim 5 of Group A, and claims 29-31 depend from independent claim 12 of Group A.

RESPONSE TO RESTRICTION REQUIREMENT
AND ELECTION OF SPECIES REQUIREMENT
Appl. No. 10/034,959
Page 8 of 8

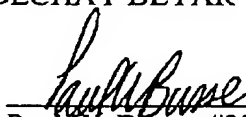
CONCLUSION

Examination of the application is respectfully requested.

Respectfully Submitted,

MORDECHAY BEYAR

By:



Paul W. Busse, #32,403
FAEGRE & BENSON LLP
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402-3901
612/766-7294

Dated: July 1, 2005

M2:20720567.01